

## REMARKS

Applicant has amended the Specification by including appropriate subtitles to identify the various sections of the Specification. Also, in accordance with the Examiner's suggestion, Applicant has rewritten the Abstract of the Disclosure as submitted herewith on a separate page.

In the aforementioned Office Action the Examiner objected to claims 3-10 as being in improper form because a multiple dependent claim should refer to other claims in the alternative only and cannot depend from any other multiple dependent claim. It is respectfully submitted that Applicant submitted a Preliminary Amendment on July 23, 2001 which eliminated the multiple dependencies of all claims. Further, Applicant has made minor amendments to claims 3-15 for grammatical purposes.

Claims 1 and 2 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.. It is respectfully submitted that the rewritten claims are now in proper form and are no longer in narrative form or replete with indefinite and functional or operational language. Reconsideration and withdraw of the rejection under 35 U.S.C. §112 is therefore requested.

Claims 1 and 2 were further rejected under 35 U.S.C. §102(b) as being anticipated by Otani U.S. 4,921,676. It is respectfully submitted that amended claims 1-15 are clearly and patentably distinguished over the Otani reference.

The present invention relates to a device for processing samples of blood products contained in tubes closed by means of bungs and loaded into cassettes, of the type incorporating means for agitation which are capable of agitating the tubes together with sampling means for collecting at least one sample from a pre-agitated tube.

According to the central features of this invention, the device includes transfer means 10 designated to move a cassette 12 individually on a predetermined path, the means of agitation incorporate at least one pickup mechanism 32 for picking up at least one selected tube 18 from a cassette 12. The amended claims now call for means for immobilizing a cassette and to pickup at least one selected tube 18 from an immobilized cassette on the path to remove the

tube away from the cassette, to agitate the tube and to replace it in the cassette. Furthermore, the sampling means 34 includes at least one needle 148 to draw a given sample quantity from the tube that has been pre-agitated and replaced in the cassette.

As claimed, the tube is extracted from the cassette agitated and replaced in the cassette and the drawing of the sample is affected from the tube which has been replaced in the cassette. This concept is not disclosed or suggested by the cited reference. The claimed features exhibit a number of advantages which are outlined in the Specification (see page 3, line 27 to page 4, line 7).

The cited reference relates to a shaking apparatus for agitating and withdrawing a specimen in a sealed vessel. It should be noted, that according to the Otani reference a vessel (tube) is extracted from a rack 12, then agitated in a position located above the rack, and then displaced to an upper position where the sample is withdrawn from the vessel through needles 88 and 90. This result is clear from consideration of Figures 1 and 2 and from the description particularly of the passage of column 3, lines 44-64. Consequently, the withdrawal of this sample is made in the vessel 14 in an upper position appearing on Figures 1 and 2 where the vessel is spaced from the rack 12. The vessel is further replaced in the rack after withdraw of the sample. Consequently, Otani apparatus requires a separate withdrawing post which is spaced from the rack. As a result, the structure and the function of Applicants device are patentably distinguished from the Otani reference.

To be more specific, to withdraw a sample from a tube contained in the cassette in the instant invention eliminates the need for the withdrawing post and thus results in a simpler and more viable device.

Further, as called for in amended claim 3 the tubes are placed vertically in the cassette and inline with the direction of travel and wherein the means of agitation are arranged to withdraw at least one tube laterally from the cassette and to replace it laterally into the cassette after agitation. This concept is not disclosed or suggested by the cited reference.

Further, it is respectfully submitted that each of the other claims are clearly distinguished over the cited reference. Amended claim 4 is further distinguished over the cited reference by calling for the cassette 12 incorporating flexible U clips allowing the removal and

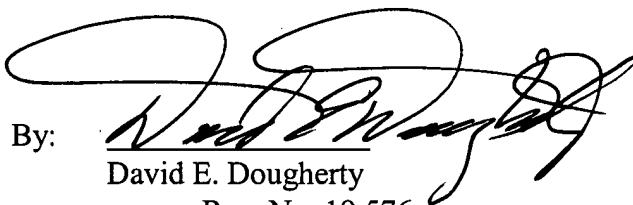
replacement of a tube by a lateral movement parallel to its self or by an axial movement of the tube along the axis of the later. This concept is not disclosed or suggested by the cited reference.

In addition, amended claim 5 is further distinguished over the cited reference by calling for the pickup mechanism being driven in continuous rotation by a motor 88 thereby affecting continuous agitation by turning the tube through a complete revolution. This concept is not disclosed or suggested by the cited reference. It is also Applicants contention that each of the additional claims are further distinguished over the cited reference by the additional elements in each of those claims.

Since all of the claims are now in proper form and clearly and patentably distinguished over the cited art, prompt favorable action is requested.

Respectfully submitted,

April 21, 2004  
Date

By:   
David E. Dougherty  
Reg. No. 19,576

Dennison, Schultz, Dougherty & MacDonald  
1727 King Street  
Suite 105  
Alexandria, Virginia 22314  
Tel: 703-837-9600 - Ext. 17  
Fax: 703-837-0980